



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JULY 9, 2007

VI.2

ITEM NUMBER:

SUBJECT: REHEARING FOR PLANNING APPLICATION PA-06-78 AND TENTATIVE MAP T-17142
577 AND 579 VICTORIA STREET

DATE: JUNE 28, 2007

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP SENIOR PLANNER (714) 754-5611

DESCRIPTION

The applicant is proposing to convert an existing, 12-unit apartment complex into a common interest development (condominiums), with a tract map to facilitate the conversion.

This is a rehearing of the project as requested by the applicant. The project was approved, with modifications, including the removal of three units and additional conditions of approval, by the Planning Commission on April 23, 2007.

APPLICANT

The applicant is Barry Saywitz of Saywitz Properties Two, who is also the owner of the property.

RECOMMENDATION

Uphold, reverse, or modify the approval by adoption of Planning Commission resolution.

MEL LEE, AICP
Senior Planner

R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND/ANALYSIS

The subject property contains a 12-unit, apartment complex, constructed in 1960. Six of the units are addressed as 577 Victoria Street, units A through F and the other six units are addressed as 579 Victoria Street, units A through F. The units consist of ten 2-bedroom units and two 3-bedroom units. All of the units are one-story.

At the April 23, 2007 meeting, Planning Commission, on a 3 to 2 vote (Chair Hall and Commissioner Egan voting no), approved the common interest development conversion, subject to conditions of approval, including the following conditions of approval added by the Commission as shown in Exhibit "B":

29. All improvements listed in the letter submitted by the applicant dated April 19, 2007 shall be completed under the direction of the Planning staff.
30. The applicant shall inspect and replace the sewer, if necessary.
31. 100 amp electrical service panels shall be provided for the project.
32. Separate gas, electrical, and water meters for each unit shall be provided, if allowed by the affected utility company.
33. The applicant shall remove the two front units along Victoria Street (577 A and 579 A Victoria Street), and one unit at the rear of the property, to provide additional open space and parking spaces (3 parking spaces per unit minimum) for the ownership units.
34. Exterior walls shall be insulated.
35. Firewalls between garages and units shall comply with current codes.
36. Roll-up doors shall be provided for all garages with remote control units provided.

On April 30, 2007, the applicant submitted a request for a rehearing on the basis that there is new information related to the feasibility of the project as approved and conditioned that was not made available to the Commissioners during the hearing. A copy of the rehearing request is attached to this report

The request for rehearing was granted by the Commission on June 11, 2007 on a 3-2 vote (Commissioners Fisler and Righeimer voting no).

ALTERNATIVES

Planning Commission may consider the following alternatives:

1. Uphold the approval of the project with no modifications to the conditions of approval.
2. Approve the project with modifications to the conditions of approval as recommended by the applicant.
3. Deny the project. If the project is denied, appropriate findings would need to be made.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

CONCLUSION

The Planning Commission may uphold the approval of the project as currently conditioned, modify the conditions of approval as requested by the applicant, or deny the project.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" - Draft Findings
 Exhibit "B" - Draft Conditions of Approval
 Applicant's Rehearing Request
 Minutes of the April 23, 2007 Planning Commission meeting for
 PA-06-78 and T-17142
 PC Resolution PC-07-33
 Planning Commission agenda report for PA-06-78 and T-17142
 Zoning/Location Map
 Plans
 Additional information provided by the applicant at the April 23, 2007
 Planning Commission meeting (separately bound document)

cc: Deputy City Manager - Dev. Svs. Director
 Deputy City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Barry Saywitz Properties Two
Attn: Barry Saywitz
4740 Von Karman Avenue, Suite 100
Newport Beach, CA 92660

Occupant
577 Victoria Street, Unit A
Costa Mesa, CA 92627

Occupant
577 Victoria Street, Unit B
Costa Mesa, CA 92627

Occupant
577 Victoria Street, Unit C
Costa Mesa, CA 92627

Occupant
577 Victoria Street, Unit D
Costa Mesa, CA 92627

Occupant
577 Victoria Street, Unit E
Costa Mesa, CA 92627

Occupant
577 Victoria Street, Unit F
Costa Mesa, CA 92627

Occupant
579 Victoria Street, Unit A
Costa Mesa, CA 92627

Occupant
579 Victoria Street, Unit B
Costa Mesa, CA 92627

Occupant
579 Victoria Street, Unit C
Costa Mesa, CA 92627

Occupant
579 Victoria Street, Unit D
Costa Mesa, CA 92627

Occupant
579 Victoria Street, Unit E
Costa Mesa, CA 92627

Occupant
579 Victoria Street, Unit F
Costa Mesa, CA 92627

Draft Planning Commission Resolution

RESOLUTION NO. PC-07-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING THE REHEARING OF
PLANNING APPLICATION PA-06-78 AND TENTATIVE
TRACT T-17142**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Barry Saywitz, owner of the real property located at 577 and 579 Victoria Street, requesting approval to convert an existing 12-unit apartment complex into a common interest development (condominiums), to allow the units to be sold independent of one another, with a tentative map to facilitate the conversion, in an R2-MD zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on April 23, 2007 and Planning Application PA-06-78 and Tentative Tract T-17142 were approved, subject to additional conditions of approval; and

WHEREAS, a rehearing request related to the additional conditions of approval was filed by the applicant on April 30, 2007; and

WHEREAS, the applicant's request for rehearing was granted by the Planning Commission on June 11, 2007; and

WHEREAS, the rehearing was considered at a duly noticed public hearing held by the Planning Commission on July 9, 2007.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** the rehearing of Planning Application PA-06-78 and Tentative Tract T-17142 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for the rehearing of Planning Application PA-06-78 and Tentative Tract T-17142 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B".

Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 9th day of July, 2007.

Donn Hall, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on July 9, 2007, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(10) in that, although the critical vacancy rate is less than the rate established in Section 13-42(c) (Residential Common Interest Development Conversions), the condominium conversion will not diminish affordable housing stock within the City. Conversion of the apartments will result in a general upgrade of the property, as well as satisfying General Plan Goal LU-1A.4 of providing additional home ownership opportunities within the City. To ensure that existing tenants are not displaced unreasonably, a condition is included to require that current tenants be offered right of first refusal to purchase, or the property owner pay registration fees for an apartment search service mutually acceptable to both parties to help them find a new apartment if they decide not to purchase.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(e) in that:
 - a. The project is compatible and harmonious with existing development and uses in the general neighborhood.
 - b. Safety and compatibility of the design of buildings, parking areas, landscaping, luminaries and other site features, which includes functional aspect of the site development such as automobile and pedestrian circulation, have been considered.
 - c. The project is consistent with the General Plan's Land Use and Housing Element goals and objectives for additional ownership housing and to improve the balance between rental and ownership housing opportunities within the City.
 - d. The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.
- C. The proposed single lot airspace subdivision is consistent with the City's General Plan and Zoning Ordinances.
- D. Approval of the subdivision will allow additional home ownership opportunities without impacting affordable rental housing. This is consistent with the objectives, policies, general land use, and programs specified in the General Plan.
- E. The subject property is physically suitable to accommodate T-17142 in terms of type, design and density of development, and will not result in substantial environmental damage nor public health problems, based on compliance with the City's Zoning Code and General Plan.
- F. The design of the subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision, as required by Government Code Section 66473.1.
- G. The subdivision and development of the property will not unreasonably interfere with the free and complete exercise of the public entry and/or public utility rights-of-way and/or easements within the tract.

- H. The discharge of sewage from this subdivision into the public sewer system will not violate the requirements of the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000 of the Water Code).
- I. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 (Existing Facilities).
- J. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL**

- Plng.
1. The following improvements shall be made:
 - a. All improvements listed in the property report prepared by Stern Architects dated December 14, 2007 shall be completed under the direction of the Planning staff.
 - b. Applicant shall treat termite infestations and repair dryrot damage as recommended by a termite control company prior to Planning Division final.
 2. The address of the property and the individual units shall be blueprinted on the site plan and on all floor plans in the working drawings as part of the plan check submittal package.
 3. Street addresses shall be displayed on the complex identification sign or, if there is no complex identification sign, on the wall in a manner visible to the public street. Street address numerals shall be a minimum 6" in height with not less than ½" stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be 4" in height with not less than ¼" stroke and shall contrast sharply with the background.
 4. Applicant shall contact the Building Safety Division, prior to the release of utilities for any units, to provide proof that the Uniform Building Code requirements for condominiums have been satisfied, to obtain a change in occupancy permit, and to complete any additional items created through this conversion.
 5. The site plan shall show provisions for the placement of centralized mail delivery units, if applicable. Specific locations for such units shall be to the satisfaction of the Planning Division, Engineering Division, and the US Posta Service.
 6. The conditions of approval, code requirements, and special district requirements of Planning Application PA-06-78 and Tentative Tract T-17142 shall be blueprinted on the face of the site plan in the working drawings.
 7. The applicant shall contact the Planning Division to arrange for an inspection of the site prior to the final Building Division inspections. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
 8. The applicant shall offer the existing tenants right of first refusal to purchase any of the units with terms more favorable than those offered to the general public. The right shall run for a period of not less than 90 days unless the tenant gives prior written notice of his or her intention not to exercise the right. If an existing tenant confirms in writing that he/she is not interested in purchasing any of the units, the applicant shall register the tenant with an apartment/rental referral service that is mutually acceptable to the applicant and tenant, and if a registration fee is required, the applicant shall pay said fee. The applicant shall provide the Planning Division staff a copy of the written offer and the tenant's written response prior to map recordation. The

applicant shall also provide written evidence that all tenants not accepting the purchase offer are registered with an apartment/rental referral service and the registration fee has been paid, if applicable.

9. The CC&R's shall require that garage spaces be used for parking purposes only. Any changes made to this provision shall require prior review and approval by the City of Costa Mesa.
10. The CC&R's shall disclose that the available parking on-site is short of the current condominium parking standards because of its existing nonconforming status.
11. Exterior façade improvements shall be required that are consistent with the City's Residential Design Guidelines, i.e., belly banding, window treatments, application of siding treatments, etc. to enhance overall appearance.
12. The exterior of all building elevations shall be completely repainted, unless recently painted within 1 or 2 years of application submittal. At a minimum two colors should be used (three colors recommended).
13. Energy efficient exterior doors and windows shall be installed on all building elevations.
14. Underground overhead power line connections, if allowed by the utility company.
15. Rain gutters shall be installed on all appropriate building elevations.
16. Broken sidewalks, driveways, or other hardscape improvements shall be replaced.
17. Repair, replace, or construct interior property walls and/or fences.
18. Screen utility meters, pedestals, etc. from the public right-of-way in a manner subject to approval by the Planning Division.
19. Replace all appliances, water heaters, and interior and exterior light fixtures with Energy Star (or better) rated appliances/fixtures, including a programmable heating system, unless the applicant demonstrates that the existing appliances, etc. are energy efficient.
20. All water heaters shall be placed appropriately on a platform and strapped.
21. Provide a washer/dryer hook-up in either the interior of every unit (not within garages).
22. Provide appropriate interior separation of any common attic space areas.
23. Upgrade attic insulation to the maximum extent feasible.
24. All required smoke detectors shall be hardwired.
25. Applicant shall contact the Building Safety Division, prior to the release of utilities for any units, to provide proof that the Uniform Building Code requirements for condominiums have been satisfied, to obtain a change in occupancy permit, and to complete any additional items created through this conversion.
26. The applicant shall show proof of compliance with all applicable conditions of approval and code requirements prior to recordation of the final map. This condition shall be completed under the direction of the Planning Staff.
27. Comply with all building, plumbing, electrical, and mechanical corrections listed in the January 10, 2007, Building Safety Division memo.

Bldg.

- | | | |
|-------|-----|--|
| Eng. | 28. | Comply with requirements of the letter of the City Engineer dated March 20, 2007. |
| Plng. | 29. | All improvements listed in the letter submitted by the applicant dated April 19, 2007 shall be completed under the direction of the Planning staff. |
| Comm. | 30. | The applicant shall inspect and replace the sewer, if necessary. |
| | 31. | 100 amp electrical service panels shall be provided for the project. |
| | 32. | Separate gas, electrical, and water meters for each unit shall be provided, if allowed by the affected utility company. |
| | 33. | The applicant shall remove the two front units along Victoria Street (577 A and 579 A Victoria Street), and one unit at the rear of the property, to provide additional open space and parking spaces (3 parking spaces per unit minimum) for the ownership units. |
| | 34. | Exterior walls shall be insulated. |
| | 35. | Firewalls between garages and units shall comply with current codes. |
| | 36. | Roll-up doors shall be provided for all garages with remote control units provided. |

Applicant's Rehearing Request



THE SAYWITZ COMPANY

4740 VON KARMAN, SUITE 100 • NEWPORT BEACH, CA 92660 • 949-930-7500 • FAX 949-930-7555

RECEIVED
CITY CLERK

2007 APR 30 PM 3:22

CITY OF COSTA MESA
BY _____

April 30, 2007

City of Costa Mesa
Planning Department
P.O. Box 1200
Costa Mesa, CA 92628-1200

Re: Planning Commission Request for Rehearing -- PA-06-78 (577/579 Victoria, Costa Mesa)

Dear Planning Commission:

This letter is a formal request for a rehearing of the above referenced Planning Commission item which was heard on April 23rd, 2007, for my property at 577 & 579 Victoria in Costa Mesa. I have attached the application for the rehearing, as well as the appropriate fees.

I would formally like to request a rehearing on this item on the basis that there is information which was not made available to the Planning Commissioners at the hearing that significantly impacts the feasibility of the project and its ability to move forward in any form.

The project was submitted for a condo conversion for a total of twelve units. The motion to approve or deny that application was never voted on because a substituted motion was presented by one of the commissioners. The substituted motion required the removal of three of the units and did not specify details with regards to what would be put in place of those units, nor the specific units in general. Additionally, as the applicant, I was never asked whether this substituted motion was acceptable or something that would be a practical solution as an alternative as to what was initially being proposed.

Unfortunately, the removal of these units is not a scenario that I am interested in pursuing. The financial impact to the project due to the loss of potential income from the sale of those three condos, which are the three most desirable units in the complex, combined with all of the additional costs of remodeling, renovation, and upgrades to the property, makes the project financially unfeasible. I was never asked my opinion of this modification, nor was I asked or allowed to speak in response to the modification of this particular item on the substitute motion. I believe that in the event that the Commissioners were fully informed as to the financial impact of this modification to the project and that it would preclude the project from moving forward in any form, would have significantly impacted their decision making and thought process with regards to the project.

Please accept this letter as my formal application for a rehearing. Should you have any questions with regards to this issue, or any further questions on the project itself, I would be happy to discuss them with you, the Commissioners, or anyone else at the City that should need to speak with me. I can be reached directly at (949) 930-7502.

Sincerely,


Barry Saywitz
President

Enclosure(s)



ORANGE COUNTY • SAN FRANCISCO • SAN DIEGO • LOS ANGELES • SILICON VALLEY • SACRAMENTO • ALBUQUERQUE • ATLANTA • AUSTIN
BALTIMORE • BOSTON • BUFFALO • CHARLOTTE • CHICAGO • CINCINNATI • DALLAS • DELAWARE • DENVER • DETROIT • HAIRFORD
HONOLULU • HOUSTON • INDIANAPOLIS • KANSAS CITY • MIAMI • MINNEAPOLIS • NASHVILLE • NEW JERSEY • NEW YORK • ORLANDO
PHILADELPHIA • PHOENIX • PITTSBURGH • PORTLAND • RALEIGH • SAN ANTONIO • SEATTLE • ST. LOUIS • TAMPA • TULSA • WASHINGTON D.C.

CITY OF COSTA MESA
P. O. Box 1200
Costa Mesa, CA 92628-1200

FEE: \$ 1070.00**APPLICATION FOR REVIEW, APPEAL OR REHEARING**

Applicant Name Berry Saywitz / The Saywitz Company
Address 4740 Van Korman Ave, Newport Beach, CA 92660
Phone 949-930-7502 Representing* The Saywitz Co.

REQUEST FOR: ☐ REVIEW** ☐ APPEAL ☒ REHEARING

Decision of which review, appeal or rehearing is requested: (give number of rezoning, zone exception, ordinance, etc., if

applicable, and the date of the decision, if known.) Planning Commission MeetingApril 23, 2007 - PA-06-78 for Condo Conversion
at 577/ 579 Victoria

Decision by: Planning Reasons for requesting review, appeal or rehearing: Application was
approved but only for 9 units not 12 as
proposed. Applicant was never asked nor spoke
about feasibility, practicality or financial impact
of the substituted motion and change in
number of units. Project is not financially
viable as 9 units and will not be pursued
by applicant as it stands.

See attached Letter.Date: 4/30/07Signature: [Signature]

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.

** Review may be requested only by City Council or City Council Member

Costa Mesa/Forms1/Application for Review-Appeal-Rehearing



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**